INCOMING TELEGRAM *Department of State*

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Control: 5461
Rec'd: March 16, 1953
5:32 a.m.

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FROM: Tokyo

TO: Secretary of State

NO: 1987, March 16, 6 p.m.

FCN Treaty.

Department's A-627, February 24.

Japanese indicate will accept proposed paragraph 15 protocol revised as follows "during a ~~transitional period of three~~ years from the coming into force of the present treaty, Japan may continue to apply existing restrictions on the purchase by aliens, with yen, of outstanding shares in Japanese companies". Embassy believes emphasis on existing restrictions and outstanding shares rather than more general interests is desirable and strongly recommends approval.

Department will note that original "with yen earnings" modified. Japanese believe foreign investment law restrictions on purchase outstanding shares generally applicable all yen holdings from whatever source including profits, proceeds of sale other local interests, inheritance, conversion foreign currencies. Embassy agrees our concession three-year extension foreign investment law, particularly when limited to purchase outstanding shares on stock market, envisages restrictions purchases with yen regardless source. Embassy therefore recommends acceptance Japanese position.

Foreign Office would much prefer entirely deleting words "with yen", taking position yen only currency acceptable stockmarket operations. Embassy recognizes merit Japanese view but believes American user of treaty would find paragraph 15 without reference yen confusing since screening investment already covered protocol paragraph 6. Embassy therefore believes "with yen" should be retained, which Japanese indicate will accept provided minutes stipulate phrase intended largely for clarity and without prejudice Japanese application foreign investment law restrictions on stockmarket purchases with yen from whatever source. Embassy perceives no objection such clarification in minutes. Request Department's concurrence soonest as discussions next few days may be conclusive.

MURPHY

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